APPENDIX A

In the Circuit Court of the Fourteenth Judicial Circuit
Rock Island County, Illinois
General Division

Leva Adkins, Administratrix of the Estate of Everett Adkins, Deceased, Plaintiff,
vs.
Chicago, Rock Island and Pacific Railroad Company, Defendant.
} No. 68 L. 69.

Motion to Dismiss

Defendant, Chicago, Rock Island and Pacific Railroad Company, respectfully moves the Court to decline to exercise its jurisdiction over this cause and to dismiss same on the grounds of forum non conveniens.

In support of this motion, Defendant submits the attached Affidavit of Frederick P. Patton, which Affidavit is attached hereto and made a part hereof.

State of Illinois
County of Rock Island } ss.

Affidavit of Frederick P. Patton

Frederick P. Patton, of lawful age, being first duly sworn, upon his oath states that prior to and on October 6, 1966, and at all times thereafter, he has been and now is an attorney for

the Defendant, Chicago, Rock Island and Pacific Railroad Company, and does make this Affidavit for and in behalf of the Defendant; that at his direction and under his supervision, an investigation was made of the facts pertaining to the issues of this case, and the facts herein set forth are based upon said investigation and are true to the best of affiant's knowledge and belief:

1. Plaintiff, at the time of the alleged accident and since said time, has continuously resided at Trenton, Michigan.

2. That Trenton, Michigan is over 427 miles from Rock Island, Illinois.

3. Plaintiff's attorneys prior to the filing of this Complaint were Harry Philo of Muskegon, Michigan and Lawyer, Lawyer, Ray and Crouch of Des Moines, Iowa.

4. The alleged cause of action involved in this law suit occurred in Boone, Iowa, which is located approximately 15 miles West of Des Moines, Iowa, and over 200 miles from Rock Island, Illinois.

5. The presence and testimony of at least twelve (12) witnesses who are residents of the State of Iowa will be essential to the defense of this cause of action. These witnesses are not subject to the service of subpoena of the Circuit Court of Rock Island County, Illinois.

6. The minimum loss of time for any witness attending the trial of this case in this Court will be four (4) days and the necessary expense for transportation, maintenance and loss of time of such witnesses as would voluntarily travel to Rock Island, Illinois, to testify on Defendant's behalf would aggregate a substantial sum of money.

7. The filing of this Complaint by the Plaintiff in this Court is vexatious and forum shopping as this case was previously set

down for trial in the United States District Court for the Southern District of Iowa and voluntarily dismissed by the Plaintiff on November 9, 1967, which was on the eve of the trial. Attached hereto is an Affidavit by B. A. Webster, Jr., attorney for the Defendant in Iowa regarding the facts concerning the dismissal of this cause on November 9, 1967.

8. That the dockets of the United States District Court for the Southern District of Iowa and for the Northern District of Iowa and the dockets of the State Courts, both in the City of Des Moines and in Dallas County, Iowa, are not crowded and that cases filed therein may be moved forward rapidly for trial.

9. There is no relevant connection between this cause of action and the Circuit Court of Rock Island County, Illinois.

10. That the jury in this cause would not have an opportunity of viewing the scene of the accident; whereas, a jury in Des Moines, Iowa, or in Dallas County, Iowa, would be afforded this privilege.

11. There are no facts to be proven by either party by witnesses residing in the State of Illinois.

Affidavit

State of Iowa
County of Polk

I, B. A. Webster, being first duly sworn, on oath depose and state that I am General Attorney for the Chicago, Rock Island and Pacific Railroad Company in the State of Iowa.

That on or about October 18, 1966 a Complaint was filed in the United States District Court for the Southern District of Iowa, Central Division, entitled Leva Adkins, Administratrix of the Estate of Everett Adkins, Deceased, Plaintiff v. Chicago,

Rock Island and Pacific Railroad Company, Defendant, being Civil Action No. 7-1905-C-1, which is the identical cause as now pending in this Court in Rock Island, Illinois.

That thereafter in said proceedings Interrogatories were filed by the plaintiff and were answered by the defendant. That numerous depositions were taken and all pre-trial proceedings were completed. That said case was set for trial in the United States District Court on December 5, 1967.

That prior to the date set for trial, defendant filed a Motion in Limine, a copy of which is attached hereto and by this reference made a part hereof. That at a pre-trial conference held before the Court immediately prior to trial all of the grounds of Defendant's Motion in Limine were sustained by the Honorable Roy L. Stephenson, United States District Judge for the Southern District of Iowa. That certain of said proceedings were reported by the Court Reporter, and a transcript may be made available.

I further state that the dockets of the United States District Court for the Southern District of Iowa and for the Northern District of Iowa are not crowded and that cases filed therein move forward rapidly for trial. I further state that the dockets of State Courts, both in the City of Des Moines and elsewhere in the State, are not crowded and that cases filed therein may be moved forward rapidly for trial.

Dated this 14th day of March, 1968.

(Defendants' Motion in Limine attached, not reproduced).

APPENDIX B

Extracts From Docket Entries, Circuit Court, Rock Island County, Illinois

"March 15, 1968 Motion to Dismiss filed by Defendant, together with Affidavits.

"April 1, 1968 Notice of hearing filed by Defendant, with Proof of Service.

"May 2, 1968 Notice of Hearing and Proof of Service filed by Defendant.

"May 9, 1968 Notice of Hearing filed by Plaintiff, together with Proof of Service.

"May 14, 1968 Hearing on Motions to Dismiss and hearing on Motion to Amend, continued generally, but to be heard within 15 days.

"May 14, 1968 Amended Complaint and Jury Demand filed by Plaintiff.

"July 30, 1968 Notice of Hearing filed by Defendant, together with Certificate of Service.

"August 1, 1968 Notice of Hearing filed by Plaintiff, with Proof of Service.

"August 8, 1968 Notice of Hearing filed by Plaintiff, with Proof of Service.

"August 12, 1968 Motion for Leave to Amend heard and granted nunc pro tunc May 14, 1968. Motion to Dismiss filed, 3/15/68 heard and denied (See Ord. DHM).

APPENDIX C

State of Illinois }
Supreme Court } ss

At a term of the Supreme Court, begun and held in Springfield on Monday, the fourteenth day of May in the year of our Lord, one thousand nine hundred and seventy-three, within and for the State of Illinois.

Present: Robert C. Underwood, Chief Justice
Justice Walter V. Schaefer
Justice Daniel P. Ward
Justice Joseph Goldenhersh
Justice Thomas E. Kluczynski
Justice Charles H. Davis
Justice Howard C. Ryan
William J. Scott, Attorney General
Robert G. Miley, Marshal

Be It Remembered, that, to-wit: on the 4th day of June, 1973, the same being one of the days of the term of Court aforesaid, the following proceedings were, by said Court, had and entered of record, to-wit:

Chicago, Rock Island and Pacific Railroad Company; W. B. Throckmorton and R. V. Loftus, Appellants, vs. Leva Adkins, Administratrix of the Estate of Everett Adkins, Deceased, Appellee.	Appeal from Appellate Court, Third District. 69-135. 68-L-69.
No. 44876	

And now, on this day, this case having been argued by counsel, and the Court, having diligently examined and in-

spected as well the record and proceedings aforesaid, as the matters and things therein assigned for error, and now, being sufficiently advised of and concerning the premises, are of the opinion that in the record and proceedings aforesaid, and in the rendition of the judgments aforesaid, there is manifest error.

Therefore, it is considered by the Court that for that error and others in the record and proceedings aforesaid the judgments of the Appellate Court of the Third District and the Circuit Court of Rock Island County in this behalf rendered Be Reversed, Annulled, Set Aside and Wholly for Nothing Esteemed and this cause be remanded to the Circuit Court of Rock Island County with directions to grant the motion to dismiss.

And it is further considered by the Court that the said appellants recover of and from the said appellee costs by them in this behalf expended to be taxed in due course of administration.

I, Justin Taft, Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and seal thereof, do hereby certify that the foregoing is a true copy of the final order of the said Supreme Court in the above entitled cause of record in my office.

In Witness Whereof, I have hereunto subscribed my name and affixed the Seal of said Court this 10th day of October, 1973.

Signed: Justin Taft, Clerk
Supreme Court of the
State of Illinois

(Seal)

APPENDIX D

United States of America in the Federal Court for the

Northern District of Illinois, Eastern Division

Leva Adkins, Administratrix of the Estate of Everett Adkins, Deceased, Plaintiff, vs. The Honorable Robert C. Underwood, The Honorable Walter V. Schaefer, The Honorable Daniel P. Ward, The Honorable Joseph H. Goldenhersh, The Honorable Thomas E. Kluczynski, The Honorable Howard C. Ryan, The Honorable Dan H. McNeal, The Honorable Charles Smith, Defendants.	No. 73 C 2558.

Stipulation

It is herewith Agreed by and between the parties in the above entitled cause that defendants have until Novmber 27, 1973 to answer the complaint or to plead otherwise. It is also Stipulated that in the meantime neither of the defendant Circuit Court judges in Rockford Illinois, will act in accordance with the Mandate of the Illinois Supreme Court issued in the case of Leva Adkins, Administratrix, v. Chicago, Rock Island and Pacific Railroad Company.

WILLIAM J. SCOTT
Attorney General of the State of Illinois
By FRED F. HERZOG
First Assistant Attorney General
of the State of Illinois
Attorney for Defendants
Room 1700
130 North Wells Street
Chicago, Illinois 60606
(312) 793-2457

PHILO, MAKI, COCKREL, ROBB,
SPEARMAN and COOPER
By HARRY M. PHILO
Attorneys for Plaintiff
Fourth Floor, 409 Griswold
Detroit, Michigan 48226
(313) 259-1330

Rec'd from AG 11/8/73

APPENDIX E

In the Circuit Court of the Fourteenth Judicial Circuit
Rock Island County, Illinois, General Division

Leva Adkins, Administratrix of the Estate of Everett Harmon Adkins, Deceased, Plaintiff, vs. Chicago, Rock Island and Pacific Railroad Company, R. V. Loftus and W. B. Throckmorton, Defendants.	No. 68 L 69

ORDER

(Filed in the Circuit Court of Rock Island County
General Division, January 13, 1976)

This cause coming on to be heard on the Motion of Defendant for a Judgment for costs, defendant appearing by its attorney, William M. Walker, and plaintiff by her attorney, Frank G. Schubert, and the court after having heard arguments of counsel and now being fully advised in the premises hereby Adjudges, Orders and Decrees:

That, pursuant to Mandate of Supreme Court dated October 10, 1973, judgment in favor of the Defendant, Chicago, Rock Island and Pacific Railroad Company be and is hereby entered

for costs in the amount of $2,645.80, together with interest at the rate of six percent (6%) from and after June 4, 1973.

Dated this 10th day of December, A.D., 1975.

Enter:

CHARLES J. SMITH
Judge

Approved as to form:

(Not Signed)
Attorney for Plaintiff